THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23300 of 2005

Between:

Sk.Haneef.

.. PETITIONER

AND

The Regional Manager, APSRTC. and others.

.. RESPONDENTS

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ORDER:

The petitioner was employed as a driver in APSRTC and was posted in the Metpally Depot. On 19-09-2002, the bus driven by him met with an accident. The disciplinary proceedings were initiated against the petitioner and through orders dated 29-05-2003 the 3rd respondent removed the petitioner from service. The petitioner preferred an appeal before the second respondent. The appeal was rejected on 09-08-2004, on the ground that it was presented beyond the period of limitation. In the meanwhile, the court of Judicial First Class Magistrate, Metpally, acquitted the petitioner in C.C.No.185 of 2003. Referring to the same and other relevant factors, the petitioner filed a review before the first respondent on 08-01-2005. The first respondent rejected the review through orders, dated 13-06-2005, and the same is challenged in the writ petition.

Learned counsel for the petitioner submits that dismissal of the appeal by the second respondent was without any basis. He contends that, on the one hand, an observation was made to the effect that the order of removal is proper and on the other hand it was rejected on the ground that it was presented beyond the period of limitation. He also contends that the reviewing authority also committed the same irregularity, inasmuch the rejection was based on merits as well as the grounds of delay.

Learned Standing Counsel for the respondent, on the other hand, submits that the petitioner failed to explain the delay in the matter of presentation of appeal as well as review.

The APSRTC Service Regulations provide for the remedies of an appeal and review against the orders of punishment. On being removed from service by the 3rd respondent, the petitioner preferred an appeal before the second respondent. It is true that there was delay in presentation of the same. If the second respondent was not convinced about the grounds for delay in presentation of appeal, he ought to have returned it. Without doing so, he has undertaken a semblance of discussion on merits also and rejected the appeal.

Soon after receiving the copy of the order passed by the second respondent, the petitioner presented a review before the third respondent in January 2005. In the interregnum, the petitioner came to be acquitted by the trial court. That factor entitled him to be reinstated, subject to certain conditions, as provided for in the circulars issued by the Corporation. The first respondent was under an obligation to examine the same. However, he mechanically passed an order, upholding the order of removal on one hand and taking an objection as to the delay in submission of the review on the other. Therefore, there was improper disposal of appeal as well as review preferred by the petitioner. In that view of the matter, both the orders deserve to be setaside and the matter needs to be remanded to the second respondent.

For the forgoing reasons, the writ petition is allowed and the orders, dated 09-08-2004 and 13-06-2005 passed by the first and second respondents respectively are setaside. The matter is remanded to the second respondent for fresh disposal and consideration in accordance with law.

Having regard to the fact that the petitioner was a layman and he had to secure proper legal advice about the matter of preferring an appeal, it cannot be said that there was undue delay on the part of the petitioner in approaching the second respondent. Therefore, the appeal preferred before the second respondent shall be

treated as having been presented within the period of limitation and the final orders thereon shall be passed within a period of three months from the date of receipt of a copy of this order. No order as to costs.

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L.NARASIMHA REDDY, J

Dated: 31-10-2005

Prv